

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

JOSEPH LAFEVER

PLAINTIFF

V.

CIVIL ACTION NO.4:06CV47-GHD-JAD

JERRY PARKER, et al.

DEFENDANTS

REPORT AND RECOMMENDATION ON
MOTION FOR PRELIMINARY INJUNCTION

This inmate was housed at Delta Correctional Facility when he filed this complaint. He has since been transferred Unit 29 at Parchman, MS. He seeks an injunction to prohibit his being transferred again to Delta Correctional Facility (Doc. 38). In order to obtain injunctive relief, a plaintiff must satisfy the stringent test set forth in *Mississippi Power & Light Co. v. United Gas Pipe Co.*, 760 F.2d 618 (5th Cir. 1985) (citing *Canal Authority of State of Florida v. Callaway*, 489 F.2d 567 (5th Cir. 1974)). There is a four prong test and each prong must be satisfied before this extraordinary relief may be granted. *Mississippi Power & Light*, 760 F.2d at 621. The movant must first show a substantial likelihood that he will prevail on the merits. Because inmates do not have a constitutional right to any particular housing assignment, LeFever cannot satisfy even the first prong. *Meachum v. Fano*, 427 U.S. 215, 96 S.Ct. 2532, 49 L.Ed.2d 451 (1976).

There being no substantial likelihood that the plaintiff will prevail on the merits, the undersigned recommends that the motion for preliminary injunction be denied.

The parties are referred to 28 U.S.C. 636(b)(1) and Local Rule 72.2(D) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten days of this date. Failure to file written objections to the proposed finding and recommendations contained in this report within ten

days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Plaintiff is directed to acknowledge receipt of this report and recommendation by signing the enclosed acknowledgment form and returning it to the court within ten days of this date. Plaintiff is warned that failure to comply with the requirements of this paragraph may lead to the dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

This the 26th day of March, 2007.

/s/ JERRY A. DAVIS
UNITED STATES MAGISTRATE JUDGE